

APPEAL NO. 021843  
FILED SEPTEMBER 5, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on June 11, 2002, the hearing officer determined that the compensable injury of \_\_\_\_\_, is not a producing cause of the appellant's (claimant) lumbar injury after March 6, 2000, and that the claimant did not have disability resulting from the injuries sustained on \_\_\_\_\_, after March 31, 2001. The claimant has appealed these determinations on evidentiary sufficiency grounds. The respondent (carrier) urges in response that the evidence is sufficient to support the challenged determinations.

DECISION

Affirmed.

The claimant testified that while at work on \_\_\_\_\_, she injured her entire back after about ten minutes of bending over to pick up damp mop heads from a basket and throw them into bins; that she was treated for her shoulders, neck, and upper back symptoms and returned to light duty and, eventually, full duty; and that she does not know why the medical records do not reflect her complaints of low back pain, in addition to pain in her shoulders, neck, and upper back, until she saw a new doctor approximately three months after her employment was terminated in March 2001 for low productivity. The claimant maintained that her low back was hurt at the same time as her other spinal regions and shoulders but that the focus was on the latter body parts because they were the more painful at the time. The carrier contended that the claimant's additional claim for the low back was, basically, a spite claim, which she filed after her employment was terminated and her unemployment benefits had expired. The medical evidence was in conflict as to whether the claimant sustained a lumbar strain injury which resolved or whether the lumbar disc findings were caused by the \_\_\_\_\_, incident.

The claimant had the burden to prove that she sustained the claimed injury and that she had disability as that term is defined in Section 401.011(16). Texas Workers' Compensation Commission Appeal No. 94248, decided April 12, 1994. The Appeals Panel has stated that in workers' compensation cases, the disputed issues of injury and disability can, generally, be established by the lay testimony of the claimant alone. Texas Workers' Compensation Commission Appeal No. 91124, decided February 12, 1992. However, the testimony of a claimant, as an interested party, only raises issues of fact for the hearing officer to resolve and is not binding on the hearing officer. Texas Employers Insurance Association v. Burrell, 564 S.W.2d 133 (Tex. Civ. App.-Beaumont 1978, writ ref'd n.r.e.). The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508

S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). As an appellate reviewing tribunal, the Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS  
AUSTIN, TEXAS 78701.**

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Philip F. O'Neill  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Robert W. Potts  
Appeals Judge